

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No 134 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SUNRISE SOAP & CHEMICALS LIMITED

Versus

OFFICIAL LIQUIDATOR

Appearance:

MRS SS SOPARKAR for Petitioner

OFFICIAL LIQUIDATOR for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 07/26-11-96

ORAL JUDGEMENT

This petition has been filed by a transferor Company under provisions of the Companies Act with a prayer that a scheme of amalgamation referred to in para 8 of the petition and annexed to the petition at Annexure "C" be sanctioned.

Learned advocate Mrs. SS Soparkar appearing for the petitioner-Company has submitted that shareholders

and unsecured creditors of the Company had given their consent to the above referred scheme of amalgamation and, therefore, meetings of shareholders and unsecured creditors were dispensed with by an order dated 8th November, 1995 passed by this Court in Company Application No. 203 of 1995.

In pursuance of an order dated 4th December, 1995, necessary advertisement was given in "Indian Express" as well as in "Loksatta". In pursuance of the said advertisement, no objection has been received from any person.

Notice was also issued to the Official Liquidator so as to have his report. The Official Liquidator has submitted his report on 20th September, 1996. In the said report, the Official Liquidator has submitted that in pursuance of an order of this Court, he had appointed a Chartered Accountant to scrutinise the books of accounts and affairs of the Company. The concerned Chartered Accountant had submitted his report to the Official Liquidator on or about 13th September, 1996 and upon perusal of the said report and other relevant material, the Official Liquidator has opined that sanction to the above referred scheme of amalgamation would not adversely affect functioning of the Company. He has also submitted that the scheme shall neither adversely affect interest of the shareholders nor public. Thus, the Official Liquidator has submitted his report in favour of the above referred scheme of amalgamation.

Notice was also issued to the Central Government and in pursuance of the said notice, learned additional Central Government Standing Counsel Mr Jayant Patel has appeared and has submitted that the petitioner-Company has not furnished necessary details with regard to exchange ratio. He has also submitted that authorised capital of the Company is also not sufficient.

In reply to the above referred submissions made by learned additional Central Government Standing Counsel Mr Jayant Patel, it has been submitted by learned advocate Mrs Soparkar that in fact details with regard to exchange ratio had already been submitted alongwith letter dated 15th February, 1996 addressed by Mrs Soparkar to the Joint Director (Accounts), Office of the Regional Director, Department of Company Affairs, Bombay. She has placed on record an acknowledgment received from the Joint Director to the effect that letter dated 15.2.1996 written by learned advocate Mrs Soparkar was received by his office. It has further been submitted by

Mrs Soparkar that the transferee Company is having its registered office at Bombay and the Hon'ble Bombay High Court has already accorded its sanction to the scheme of amalgamation and she has also placed on record a copy of an order passed in Civil Application No. 679 of 1993 by the Bombay High Court dated 3rd October, 1996 whereby the scheme of amalgamation so far as the transferee company is concerned, has been sanctioned by the Bombay High Court. She has further submitted that authorised capital of the transferee company would be increased after the scheme of amalgamation is sanctioned. In view of the above facts, it appears that there should not be any objection with regard to grant of the scheme of amalgamation so far as the Central Government is concerned.

Upon perusal of the scheme of amalgamation which is at Annexure "C" to the petition, it appears that it would be in the interest of the transferor and the transferee companies to sanction the scheme of amalgamation. It also appears that the said scheme will also be beneficial to the transferor company as the transferee company has a very good network which would help the transferor company in selling its products.

In the above referred circumstances, it appears that sanction to the scheme of amalgamation would be in the interest of shareholder of the company and public at large.

In the circumstances, prayer made in para 15(A) of the petition is granted. Fees payable to the additional Central Government Standing Counsel is quantified at Rs.2,000/- (Rupees Two thousand only). The petition is disposed of accordingly.
